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March 2002

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Guide to Agricultural Sales to Cuba
Under the Trade Sanctions Reform Act

Dear Exporter:

This guide provides Washington state exporters an overview of the process involved in selling agriculture commodities to Cuba. As the sponsor of the Trade Sanctions Reform Act, I acknowledge that the process is complex and this information is intended to facilitate the consideration of business opportunities in Cuba. This guide should not be considered complete or authoritative, and exporters should directly consult the regulations on Cuba exports to ensure full compliance with the law. I stand ready to assist any Washington exporter that wishes to explore the opportunities in this new market.

Cordially,



George R. Nethercutt, Jr.
Representative in Congress

Overview of Cuba Regulations

<http://www.treas.gov/ofac/t11cuba.pdf>

<http://www.treas.gov/ofac/t11facei.pdf>

Overview of Licensing Process

<http://www.bxa.doc.gov/factsheets/TSRAnExpEnhanceActFactSheet122101.html>

1. Eligible "agricultural commodities"

(Located at: <http://www.fas.usda.gov/cmp/cmmnty.pdf>)

- Foods (bulk, prepared, confections)
- Seeds, plants, cuttings, leather
- Fertilizer
- Beer, wine, tobacco
- Wood products

2. How to Apply for a License?

- Exports to Cuba administered by the Bureau of Export Administration (BXA), Department of Commerce
<http://www.bxa.doc.gov>
- Any shipment to Cuba must first be cleared through BXA
 - Shipment is made under License Exception AGR (the term "License Exception" is something of a misnomer, as this Exception is actually the authority needed to make the sale)
- Exporter must notify BXA prior to any export or reexport
 - Provide notification by completing and submitting Form BXA-748P
 - (Available at: <http://www.bxa.doc.gov/factsheets/facts4.htm> or better still to submit electronically)
 - Apply electronically using the Bureau of Export Administration's Simplified Network Application Process (SNAP)
 - (Located at: <http://www.bxa.doc.gov/SNAP/default.htm>)
 - No contract required
- Can describe products broadly in application
- Cannot use this process for sales of pesticides, herbicides and insecticides

3. Government Review Process Following Submission of Application

- Expedited process for review
- BXA sends application to Department of Defense and Department of State- 12 day process for agencies to review, object
- Verbal notification on STELA (System for Tracking Export License Applications)
- 202-482-2752
- An exporter may ship goods after 12 days if no agency has raised an objection
- Applicants may not make the export without confirming via STELA that no agency has raised an objection
- BXA also will notify the applicant in writing of the outcome of the interagency review

4. Other Restrictions

- Must ship pursuant to a written contract
- Must ship within 12 months of contract date
- Must conform to BXA application
- U.S. bank financing prohibited
 - Methods of payment for approved sales of agricultural products and incidental transactions limited to the following:
 - Cash in advance
 - Financing through a bank located in a third country, provided the bank is not a branch of a U.S. bank or has not been designated as a prohibited bank by OFAC
 - U.S. banks may confirm or advise financing arranged through a third country bank
 - Funds for payment may not come from a blocked account
- May not sell to Cuba
 - Foreign-made product that incorporates more than 10% U.S. content by value
 - Foreign-made product that incorporates less than 10% U.S. content by value
 - Foreign-made agricultural products
- Restrictions on providing commercial services
 - U.S. persons are prohibited from providing general commercial services to Cuba
 - General license for transactions incident to an approved agricultural sale will not cover:
 - Product marketing assistance
 - Distribution support
 - Retail sales direction
 - Need a Specific License to provide any of these services to a Cuban party

5. Shipping Restrictions

- Vessels require a Specific License
 - Vessel entering a port in Cuba prohibited from loading or unloading freight in the U.S. for 180 days, without a license
 - Vessel carrying cargo or passengers to or from Cuba will be prohibited from entering a U.S. port, without a license
 - Prohibitions apply to all vessels, regardless of nationality
- Some aircraft require a license from BXA
- Expedited licensing process does not apply (30-60 days is typical)
- A number of shippers have already been approved for transportation to Cuba

6. Travel to Cuba

- Separate license is required - "Specific License"
- Obtain license through Office of Foreign Asset Control, Dept. of Treasury (Located at: <http://www.treas.gov/ofac/>)
- Travel to engage in activities directly related to marketing, sales negotiation, accompanied delivery is permitted but must receive license first
- License process is slow